

GOVERNMENT OF ANDHRA PRADESH

ABSTRACT

Suits – Settlement of Arbitration Award for an amount of Rs.49.00 lakhs in respect of the work "Excavation of Srisailem Right Branch Canal from KM 6.00 TO k.m.7.00 in all soils and Nandyal Shales of SRBC Circle No.1,Nandyal" awarded to Sri K.S.Mohan Reddy, Contractor under Agt. No.36 SE/84-85, dated 25-01-1985 – Sanction – Orders – Issued.

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IRRIGATION & C.A.D. (ARB.) DEPARTMENT.

G.O.Ms.No. 218

Dated the 18<sup>th</sup> July, 2009.

Read the following:-

1. From sri K.S.Mohan Reddy, Repn. Dt. 25-06-2008.
2. From the Learned Advocate-General, High Court of Andhra Pradesh, Hyderabad, Lr.No.998/2008, dated 25-09-2008.
3. From the C.E.(P), Irrigation, Kurnool, Lr.No.CE(P)/KNL/ NDL/ DEE3/ SRBC Arbitration/311, dated 06-11-2008.
4. Govt.Memo.No.19288/ARB/08, I & CAD (ARB) Department dated 20-11-2008.
5. From the ENC (Med.Irrgn.), Hyd., Lr.No.ENC/Med/ DCEIII/OT1/ARB-14/2008, dt. 31-01-2009 & 16-03-2009.

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**ORDER:**

Sri K.S. Mohan Reddy, Contractor in the reference first read above, has stated that he entered into an agreement with the State of A.P. represented by the Superintending Engineer, SRBC Circle No.1, Nandyal, Kurnool District, for execution of the work "Excavation of Srisailem Right Branch Canal from KM 6.00 to KM 7.00 in all soils and Nandyal Shales of SRBC Circle.No1, Nandyal". The work could not be completed within the stipulated time and the Department granted extension of time and by that date the work was completed in all respects. He has also stated that during the execution of works, he raised certain Claims and the Department did not settle the said claims. He has filed O.P.No.2 of 1992 on the file of the Subordinate Judge Court, Nandyal, to refer his claims to the Sole Arbitrator. The Hon'ble Court in its order dated 26-08-1993 has appointed Sri Justice P.A.Chowdary, as Sole Arbitrator. The Sole Arbitrator, after enquiry passed an award on 09-01-1995 and also has filed O.P. No.4 of 1995 and IA.No.9/98 in OP.No.4/1995 before the Subordinate Judge, Nandyal to make the award rule of court. The said O.P. was transferred to the Senior Civil Judge, Nandikotkur, as per the directions of the District Judge, Kurnool and renumbered as O.P. No.2 of 1998 and I.A. No. 7 of 1998. The learned Sr. Civil Judge, Nandikotkur, after elaborate trial passed a Decree and Judgment in his favour on 12-02-1999 making the award Rule of Court, directing the Department to pay an amount of Rs.40,29,940-00 in respect of his Claims with interest @ 18% per annum from 01-11-1991 till the date of Decree. He has filed E.P.No.74/1999. Aggrieved this, the Dept. has filed C.R.P. No.2545 of 1999 before the Hon'ble High Court of A.P., for grant of stay on Excavation proceedings in EP.No.74/1999. He has further stated that the Hon'ble High Court while granting interim stay, directed the Department to deposit a sum of Rs 45.00 lakhs within a period of (3) months and on such deposit he was permitted to withdraw half of the deposited amount without furnishing the security and the remaining half with furnishing security. Thereafter, the matter is pending disposal before the Hon'ble High Court of A.P. The Contractor has therefore requested the Government to refer his case to the committee of negotiations so as it would facilitate him to participate in the Conciliation process initiated by the Government.

**P.T.O**

2. The Learned Advocate-General, High Court of Andhra Pradesh, Hyderabad in the letter second read above, has stated that on 19-09-2008, the Advocate appearing for the Contractor in CRP.No.2545/99, served a letter

to him expressing his intention to settle the matter outside the Court. Along with the said letter the representation of the Contractor dated 25-06-2008 made to the Government for out of Court settlement is also enclosed thereto. In fact when the matter came up for hearing on 02-09-2008, the Division Bench was also informed by the Advocate for the contractor that they are agreeable for settlement outside the court. Though there is no specific order directing the Govt. to settle the matter outside the Court, it is always open for the Government to negotiate with the contractor and settle the same by inviting him for conciliation. The A.G, A.P., therefore, has suggested that in view of the representation made by the contractor, he may be called for negotiations and make an attempt for an available settlement. If conciliation fails, the matter will be argued on merits.

3. In the Govt.Memo. fourth read above, based on the suggestion of the Learned Advocate-General, High Court of A.P., Hyderabad and as per the report of the C.E., (Projects), Kurnool, the matter has been referred to the conciliation Committee for Rayalaseema Region for amicable settlement of the case.

4. The ENC Med.Irrgn., Hyd. in the letter 5<sup>th</sup> read above, has furnished the report of the conciliation Committee for Rayalaseema Region, wherein, the Committee in its report dated 31-01-2009, after the negotiation with the Contractor, has recommended for an amount of Rs. 50,12,712/- as full and final settlement towards the subject work.

5. Based on the suggestion tendered by the Learned Advocate General, High Court, the Prl.Secy. to Govt. has conducted final conciliation with the contractor on 12-03-2009 and the contractor has finally agreed for an amount of Rs.49,00,000/- as full and final settlement towards the subject work. Accordingly, the ENC Med. Irrgn., Hyderabad has obtained and furnished a notarized affidavit from the contractor, wherein, the contractor duly agreeing the finally conciliated amount of Rs.49,00,000/- towards the subject work has also declared that he will withdraw all his legal proceedings of A.P.High Court or in any other courts, if the said amount (including interest) is paid to him in token of settlement of the arbitration claims pending in courts in respect of the subject work.

6. After careful examination of the matter, Government hereby sanction the balance amount of Rs.49,00,000/- (Rupees forty nine lakhs only) towards full and final settlement payable to the contractor in respect of the work "excavation of Srisailem Right Branch canal from Km.6.00 to Km.7.00 in all soils and Nandyal shales of SRBC Circle No.I,Nandyal which was awarded to Sri K.S.Mohan Reddy, Contractor under Agt.No.36 SE/84-85, dated 25-01-1985.

7. The above sanctioned amount shall be debited to the following Head of Account:

**"MH 2701 – Capital outlay on Major and Medium Irrigation – 01 Major Irrigation (Commercial) scheme included in the plan – MH 123 SRBC Scheme included in the plan GH NSP – SH 27 Canals & distributaries – 530 Major works and 531 - Other expenditure".**

8. The Chief Engineer(Projects), Irrigation, Kurnool, is directed to arrange to pay the amount sanctioned at para ( 6 ) above, to Sri K.S. Mohan Reddy, Contractor, duly deducting the amounts that are recoverable on whatsoever account.

**:: 3 ::**

9. This order issues with the concurrence of Finance (W&P) Dept. vide their U.O.No.2484/F4(1)/09-1, dated 10-07-2009.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

S.P. TUCKER,  
PRINCIPAL SECRETARY TO GOVERNMENT.

To

The Chief Engineer (Projects), Irrigation, Kurnool.

The Pay & Accounts Officer, Hyderabad.

The Director of Works Accounts, A.P., Hyderabad.

The Asst.Pay and Accounts Officer, S.R.B.C.Schems, Nandyal.

Sri K.S.Mohan Reddy, Contractor, A-9, Anand Sheel Enclave,

Nandi Nagar, Road No.14, Banjara Hills, Hyd.

Copy to:

The Engineer-in-Chief, Medium Irrigation, I&CAD Department,

3<sup>rd</sup> floor, Jalasoudha Buildings, Errummanzil, Hyderabad.

The I&CAD (P&B) Deptt.,

The Finance(W&P) Department.

(with a request to release LOC for the sanctioned amount).

The Advocate-General, High Court of A.P., High Court Buildings, Hyderabad.

SF/SC

// FORWARDED :: BY ORDER //

SECTION OFFICER.